

NTSB Order No.
EM-6

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D. C.

Adopted by the National Transportation Safety Board
at its office in Washington, D. C.,
on the 27th day of August, 1969.

WILLARD J. SMITH, Commandant, United States Coast Guard

vs.

JOHN D. POMPEY

Docket ME-8

ORDER DISMISSING APPEAL

The seaman, employed as a first cook aboard the SS SANTA MARIA, has appealed to the Board from the decision of the Commandant of the Coast Guard, which affirmed an order of the hearing examiner suspending his seaman's documents for misconduct aboard ship. Through his counsel, the seaman urges in support of his appeal that the Commandant's decision is contrary to the weight of the evidence and that the punishment is excessive. Counsel for the Commandant opposes the appeal, on the ground that the suspension order is not appealable to this Board.

The Board's authority to review suspension orders in the maritime field has been delegated to the Commandant under section 5(m) of the Department of Transportation Act [80 Stat. 935], which, inter alia, provides: "The Board may delegate to an officer or official of the Board, or, with the approval of the Secretary, to any officer or official of the Department such of its functions as it may deem appropriate."¹ Pursuant to this authority and with the approval of the Secretary, the Board promulgated organization regulations, which, among other things, delegated to the Commandant of the Coast Guard all of its review functions with respect to actions affecting seaman's documents, except those involving revocation.² It follows that the Commandant's decision, affirming

¹49 U.S.C. 1654(m).

²14 C.F.R. 400.43 provides, in pertinent part: "....the National Transportation Safety Board, with the approval of the Secretary of Transportation, hereby makes the following delegations: (a) To the Commandant of the Coast Guard, all the

the suspension of appellant's seaman documents, represents the final administrative action to be taken.³

ACCORDINGLY, IT IS ORDERED THAT:

The instant appeal from the order of the Commandant of the Coast Guard be and it hereby is dismissed.⁴

By the National Transportation Safety Board:

JOHN H. REED
Chairman

(SEAL)

functions, powers and duties of the National Transportation Safety Board under subsection 5(b) of such Act....except:....(2) The authority to review decisions of the Commandant on appeals from orders of hearing examiners revoking licenses...."

³See our decision in Commandant v. Voutsinas, Order EM-1, adopted October 24, 1968, amended January 16, 1969.

⁴Appellant's request for extension of his temporary mariner's document is denied. This Board has no authority to grant or extend a license or document. Such an application may be made to the Commandant.